HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G. BHAVANI PRASAD

WRIT APPEAL No. 342 OF 2006

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Between:

Smt. Pattaswamy Anjana Devi

……Appellant/Petitioner

And

The District Collector, Khammam

and two others

……Respondents/Respondents

:: JUDGMENT ::

Counsel for the Appellant : Sri Palivela Satyarajababu

Counsel for the Respondents : Government Pleader for Revenue

Dated: 03-04-2006

Per G.S. SINGHVI, CJ

This is an appeal for setting aside order dated 17-03-2006 passed by the learned Single Judge, whereby he dismissed Writ Petition No. 5927 of 2005 filed by appellant for quashing proceedings bearing Rc.No.C/1551/2005, dated 05-03-2005 issued by Revenue Divisional Officer, Paloncha, Khammam district (respondent No.2 herein) and notice dated 07-05-2005
(sic 07-03-2005) in R.C.No.A-2082/2005 issued by Mandal Revenue Officer, Burgampahad mandal, Khammam district (respondent No.3 herein).

The appellant claims to be the owner of land admeasuring
Ac.0-12 guntas comprised in Survey No.4 situated at Sarapaka village, Burgampahad mandal, Khammam district. She is stated to have got the property from her father-in-law. On an application made by the appellant, respondent No.3 after conducting necessary enquiry issued pattadar passbook and title deed in her favour some time in 1996. After about nine years, respondent No.2 suo motu cancelled the entries made in favour of the appellant. Thereafter, respondent No.3 issued notice dated 07-05-2005 (sic 07-03-2005) requiring her to surrender pattadar passbook and title deed.

The appellant challenged order dated 05-03-2005 and notice dated 07-05-2005 (sic 07-03-2005) by filing writ petition under Article 226 of the Constitution of India. She pleaded that respondent No.2 did not have the power, jurisdiction or authority to suo motu cancel the entries made in the record of rights and in any case, order dated 05-03-2005 could not have been passed without complying with basics of natural justice.

The learned Single Judge rejected the first ground of challenge by observing that in terms of Rule 13 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 respondent No.2 had the power to suo motu cancel the entries recorded in the revenue records. He also rejected the second ground of challenge by observing that she was entitled to avail alternative remedy of revision under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act').

We have heard learned counsel for the parties. In our opinion, the reason assigned by the learned Single Judge for non-suiting the appellant is legally unsustainable. The rule of alternative remedy which is one of the several rules of self-imposed restraint innovated for exercising powers by the High Court under Article 226 of the Constitution of India are subject to some well recognised exceptions including the one that if the action taken by the state or public authority is contrary to the rules of natural justice, the Court will entertain the writ petition filed under Article 226 of the Constitution notwithstanding the availability of alternative remedy. Reference in this connection can appropriately be made to the judgments of the Supreme Court in **Baburam v. Zila Parishad** and **Harbanslal Sahnia v. Indian Oil Corporation Ltd.,**.

In view of the above, we allow the appeal and set aside the order of the learned Single Judge with the direction that Writ Petition No.5927 of 2005 be placed before an appropriate Bench as per roaster for fresh adjudication.

While disposing of the appeal in the manner indicated above, we make it clear that before adjudicating the writ petition afresh, the learned Single Judge should take

cognizance of W.P.M.P No.22258 of 2005 filed by Yellanki Sreenivasa Rao, son of late Yellanki Satyanarayana, resident of house No.1-169-1, Sarapaka village, Burgampahad Mandal, Khammam district for his impleadment as party respondent and decide the same.

G.S.SINGHVI, CJ

G.BHAVANI PRASAD,J

03-04-2006

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